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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,065	03/24/2005	Cecile Pasquier	3201	7555

7590 04/17/2007
Striker, Striker & Stenby
103 East Neck Road
Huntington, NY 11743

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
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1751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/530,065

Applicant(s)

PASQUIER ET AL.

Examiner

Eisa B. Elhilo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-12 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/24/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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Claims 1-12 are pending in this application.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1, 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite because the claim recites the limitation "an addition compound thereof". It is unclear what is meant by addition compound?. Specification does not provide any guidance. Clarification is required.

Claims 10 and 11 are indefinite because the claims recite the limitation "compounds of formula (I)". It is unclear if these claims are dependent on claim 1 or not? . Further, if these claims are independent claims, the recited formula (I) with its limitations should be presented in claims 10 and 11. Clarification and/or Correction are required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Vidal et al.

(WO 02/074268 A2).

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Vidal et al. (WO' 268 A2) teaches a hair dyeing composition comprising hydrazone compounds having a formula (Id), which is identical to the claimed formula (I), when in the reference's formula (Id), A is a hydrogen atom, R1 is alkyl radical and R4 is a hydrogen atom as claimed in claims 1 and 9 (see page 6, formula (ID) and English abstract of the Patent WO, 268 A2) and when in the claimed formula (I), A is a hydrogen atom, X is sulfur atom, Z is a nitrogen atom, Y is C-R3 radical wherein R3 is a hydrogen atom, wherein the composition also comprises couplers, a combination of persulfate and hydrogen peroxide as claimed in claims 1 and 4 (see page 12, lines 12-23 and page 18, lines 11-13). Vidal et al. (WO' 268 A2) teaches all the limitations of the instant claims. Hence, Vidal et al. anticipates the claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vidal et al. (WO 02/074268 A2).

Vidal et al. (WO' 268 A2) teaches a hair dyeing composition comprising hydrazone compounds, couplers and oxidants such as hydrogen peroxide and persulfates as claimed in claims 1, 4 and 5 (see page 6, formula (ID) and page 12, lines 12-23 and page 18, lines 11-13), wherein the hydrazone compounds and the couplers are present in the composition in the amounts of 0.005 to 6% which overlapped with the claimed ranges as claimed in claim 6 (see page 13, lines 3-7), direct dyes as claimed in claim 7 (see page 16, lines 6-9). The composition

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also has a pH in the range of 5-11, which overlapped with the claimed range as claimed in claim 8 (see page 19, line 1). Vidal et al. (WO' 268) also teaches a method similar to those claimed as claimed in claim 12 (see page 18, lines 4-10).

The instant claims differ from the reference by reciting specific amounts of the dyeing ingredients in the composition.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to formulate such a composition by optimizing the amounts of the dyeing ingredients in the composition in order to get the maximum effective amounts of these ingredients in the composition because the reference clearly teaches the claimed dyeing ingredients in the overlapped amounts, and, thus a person of the ordinary skill in the art would expect such a composition to have similar properties to those claimed, absent unexpected results.

Allowable Subject Matter

4. Claims 2 and 3 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record do not teach or disclose the limitations of the instant claims.

Conclusion

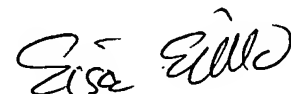
5 The remaining references listed on from PTO-1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the rejection above.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Eisa Elhilo
Primary Examiner
Art Unit 1751

April 13, 2007